

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Newblood Development, LLC,

Petitioner-Appellant,

v.

Polk County Board of Review,

Respondent-Appellee.

ORDER

**Docket No. 10-77-0191
Parcel No. 030/06250-000-000**

On August 11, 2011, the above captioned appeal came on for hearing before the Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2) and Iowa Administrative Code rules 701-71.21(1) et al. The Appellant Newblood Development, LLC was represented by Jeff Stanbrough of Stanbrough Realty, Clive, Iowa. The Polk County Board of Review designated Assistant County Attorney Ralph Marasco as its legal representative. The Appeal Board having reviewed the record, heard the testimony, and being fully advised, finds:

Findings of Fact

Newblood Development, LLC (Newblood) is the owner of a commercially classified, fast-food establishment located at 2705 Grand Avenue, Des Moines, Iowa. The property is a one-story building with 1824 square-feet of gross building area, built in 2004. Additional improvements include 7400 square feet of concrete paving, a yard light, and 48 lineal feet of wood fencing. The site is 0.383 acres.

Newblood protested to the Polk County Board of Review regarding the January 1, 2010, assessment of \$339,500, allocated as \$134,500 in land value and \$205,000 in improvement value. The January 1, 2010, assessment of the subject property did not change from the prior year's assessment.

Newblood's petition to the Board of Review was on the following grounds: 1) that the assessment is not equitable as compared with the assessments of other like property under Iowa Code section 441.37(1)(a); 2) that the property is assessed for more than the value authorized by law under section 441.37(1)(b) asserting the correct total value is \$275,000; and 3) that there has been a change in value since the last assessment under sections 441.37(1) and 441.35(3).

After consideration of all the data, the Board of Review granted partial relief, reducing the total assessment to \$321,000, allocated as \$134,500 to the land and \$186,500 to the improvements. The Board of Review stated "the assessed value of this property was changed because there has been a change in value since the last reassessment."

Newblood then appealed to this Board reasserting it was inequitably assessed and there had been a change downward in value. Because there was no change in value from the previous assessment the only ground we will consider on appeal is that there has been a change in value since the last reassessment. This is the only ground available in an "interim year" when the assessor has not changed the assessment.

The subject property had been operated as a Quiznos (sandwich shop). Quiznos did not renew its lease, and the property was vacant as of the Board of Review hearing. The record is not clear on exactly when Quiznos' lease expired prior to that date.

Jeff Stanbrough testified on behalf of Newblood at hearing. He submitted a copy of the property's lease, dated July, 29, 2010. Using the income approach, Stanbrough stated he was able to support Newblood's opinion that the correct market value of the property is \$275,000. He did this by estimating a market lease of \$13 per square foot with a 9% capitalization rate. The estimate of \$13 per square foot was based upon a projection after Quiznos did not renew its lease. The protest form notes this estimate was \$2.50 less than what Quiznos lease had been.

After the January 1, 2010, assessment and Board of Review hearing, a new tenant signed a lease renting the space for \$12 per square foot. As such, Stanbrough asserts this would indicate a value of \$244,600, making the original request of \$275,000 reasonable.

Newblood offered only the actual current rent and did not offer any support that this reflects the market rent for similar properties. When questioned about the use of a 9% capitalization rate, Stanbrough noted it was based upon "his experience," and he felt it was a "conservative rate." Stanbrough made no attempt to develop the sales approach to value and did not present any arguments as to why it could not have been developed. We do not find the income approach alone, especially with no supporting evidence sufficient to establish the January 1, 2010, market value.

Newblood also offered three properties as equity comparables: 250 SE Gateway Drive, Grimes; 2804 Beaver Avenue, Des Moines; and 319 South Ankeny Boulevard, Ankeny. On the protest form Newblood provided the tax/district parcel number, address, 2010 total assessment, gross building area (GBA), and site size. Newblood provided no other written information. At hearing, Stanbrough did not explain how the three properties presented indicate inequity in the assessment. Newblood offered no analysis of these properties either as part of a ratio study or in comparison to the subject property. Further, there were no adjustments made to the properties to account for differences between them such as quality, condition, or location. This information is ultimately irrelevant, however, because a claim of inequity is not properly before this Board.

The Board of Review did not offer any new evidence. The only information the Board of Review appears to have considered is the "appraiser's analysis." The analysis indicates that at the time of the Board of Review hearing the listed rent was \$17 per square foot, not \$13 per square foot as estimated by Newblood. Additionally, it noted that while the property was vacant, it had only been on the market for six weeks.

The analysis also offered three different comparables for an equity analysis. These properties, all in Des Moines, were located at 3350 Martin Luther King, Jr., Parkway; 3830 Merle Hay Road; and 4503 Fleur Drive. However, we do not find the analysis to represent a true ratio study. And, again, it is not relevant as equity is not an available ground.

Newblood asserts the property's market value is \$275,000, as of January 1, 2010; however, we find insufficient evidence was presented to support this opinion. Furthermore, Newblood fails to support an opinion of market value of January 1, 2009. Both the 2009 and 2010 values are necessary to establish a change in value since the last assessment.

Based upon the foregoing, we find insufficient evidence has been presented to support a claim of change in value.

Conclusions of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2011). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).


In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value

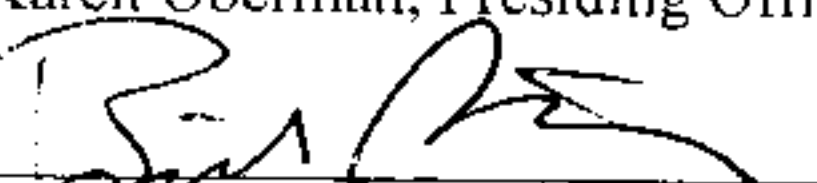
established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

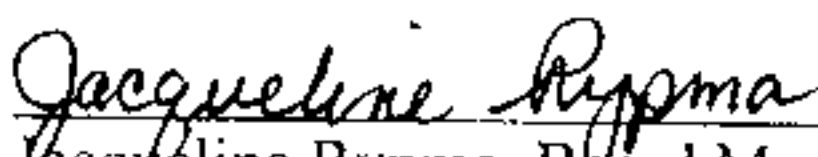
In a non-reassessment or "interim" year, when the value of the property has not changed, a taxpayer may challenge its assessment on the basis that there has been a downward trend in value. *Eagle Food Ctrs., Inc. v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 862 (Iowa 1993). The last unnumbered paragraph of Iowa Code section 441.37(1) and its reference to section 441.35(3) give rise to the claim of downward trend in value. For a taxpayer to be successful in its claim of change in value, the taxpayer must show a change in value from one year to the next; the beginning and final valuation. *Equitable Life Ins. Co. of Iowa v. Bd. of Review of the City of Des Moines*, 252 N.W.2d 449, 450 (Iowa 1997). The assessed value cannot be used for this purpose. *Id.* Essentially, it is not enough for a taxpayer to prove the last regular assessment was wrong; such a showing would be sufficient only in a year of regular assessment. *Id.* at 451. Newblood did not provide sufficient evidence supporting either the January 1, 2010, market value or the January 1, 2009, market value. Both values are required to support a claim of change in value.

THE APPEAL BOARD ORDERS the assessment of the property owned by Newblood Development, LLC located at 2705 Grand Avenue, Des Moines, Iowa, of \$321,000 as of January 1, 2010, set by the Polk County Board of Review, is affirmed.

Dated this 9 day of September, 2011


Karen Oberman, Presiding Officer


Richard Stradley, Board Chair


Jacqueline Rypma, Board Member

Cc:

Newblood Development, LLC
c/o Jeff Stanbrough
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APPELLANT

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ATTORNEY FOR APPELLEE

Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>9-9</u> , 2011	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	<u><i>Jeff Stanbrough</i></u>